SC #6 2/10/04

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: Robindranath Dutta	:	Before the Examiner: Truc T. Chuong
Serial No.: 09/726,269	:	Group Art Unit: 2174
Filed: November 30, 2000	:	
Title: SYSTEM AND METHOD FOR DISPLAYING CONTENT WITHOUT CONTROL ITEMS	:	IBM Corporation IP Law Department Internal Zip 4054 11400 Burnet Road Austin, Texas 78758

APPEAL BRIEF

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Appeal Brief is being submitted pursuant to 37 C.F.R. § 1.192. Appellant is furnishing herewith three (3) copies of this brief.

CERTIFICATION UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 3, 2004.

Toni Stanley
Signature

Toni Stanley
(Printed name of person certifying)

I. REAL PARTY-IN-INTEREST

The real party-in-interest is International Business Machines Corp., who is the assignee of the entire right and interest in the present Application.

II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences known to Appellant, the Appellant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 4-27 are pending in the Application.

Claims 4-27 stand rejected and are the subject of the instant appeal.

IV. STATUS OF AMENDMENTS

There are no amendments outstanding after the final rejection.

V. SUMMARY

The present invention removes all control items from display on a screen 101 (*see* Figure 1) so that only the content provided by a particular application is displayed. *See* also Figure 2. The result is that all control GUIs 103-108, such as menu bars, etc. are hidden from the user's view providing more screen area for the display of content. *See* Figures 3-4. In order for the user to again display such control GUIs 103-108, the user may press a hardware button 109 on the data processing device 100, or use a choice such as a Ronomatic stroke of a stylus on a

touch screen of the display device. This will bring back the control items so that the user can again manipulate the content with such control items. This is particularly useful on devices with small displays such as cell phones and PDAs.

VI. ISSUES

(1) Are claims 4-17, 21, and 23-27 properly rejected under 35 U.S.C. § 102 as being anticipated by *Klimczak et al.*, U.S. Patent No. 6,513,111 ("*Klimczak*")?

(2) Are claims 18-20 and 22 properly rejected under 35 U.S.C. § 103 as being unpatentable over *Klimczak* in view of *Ditzik*, U.S. Patent No. 6,064,373 ("*Ditzik*")?

VII. GROUPING OF CLAIMS

Claims 4, 5, 9, 13, 14, 19 and 20 form a first group.

Claims 6 and 10 form a second group.

Claims 8 and 12 form a third group.

Claims 7, 11 and 16 form a fourth group.

These groups are to be separately considered.

Claims 17, 18, 22, 23, 24, 25, 26 and 27 should be considered separately. The reasons why the claims of the respective groups and separately considered claims, if any, are separately patentable are found in the argument. 37 C.F.R. § 1.192 (c)(7).

VIII. ARGUMENT

(1) Claims 4-17 and 23-27 have been improperly rejected under 35 U.S.C. § 102 as being anticipated by *Klimczak*.

For a claim to be anticipated under § 102, each and every element of the claim must be found within the cited prior art reference. The present invention discloses

and claims an invention whereby all of the control objects can be removed from being displayed, at the user's option. In such an instance, there are then no control objects displayed to permit the user to manipulate any of the content object. When this occurs, the user is given a hardware input to again display the control objects; otherwise, the user would be unable to manipulate the content.

With respect to claim 4, the Examiner's rejection has ignored the specific language within this claim that recites that the content object is displayed without any control GUI objects. *Klimczak* does not teach or suggest that action items values can be set so that there are no control objects displayed with the application. A subscriber can give its users access to move more or fewer user interface features (the Examiner cites column 1, lines 60-63 of *Klimczak*). This does not teach that all such features are removed. The Examiner asserts that *Klimczak* provides that a user is given certain "action items" to use or none at all. This is a misquote by the Examiner since the "none at all" part is not disclosed in *Klimczak*. Moreover, *Klimczak* clearly teaches away from the claims by stating that configurable "action items" do not include access to data or databases, etc. in column 1, line 57-62. The Examiner has yet to respond to this traversal.

Regarding claim 6, *Klimczak* does not teach or suggest receiving input from the user to set the display option flag indicating the preference for the conventional screen object to be displayed comprising the display of the control GUI objects and the content object, determining the screen object to include the content object and the control GUI objects as a function of the display option flag having a setting indicating the user preference for display of the content object with the control GUI objects, and displaying the screen object on the display device of the data processing system. *Klimczak*'s teaching of giving a user the option to set up various action items does not teach the specific claim limitations.

With respect to claim 7, the Examiner has merely asserted that claim 7 is similar in scope to claim 16 and therefore rejected under a similar rationale. With respect to the control GUI objects being saved in an excess content object, as recited in claim 7, the Examiner merely asserts that "*Klimczak* indirectly shows that GUI

object (sic) can be stored into an excess content object because *Klimczak's* physical mediums for storing information are in many different forms throughout the network." The Examiner has cited language in support of such an assertion in columns 2-4, as indicated on page 5 of Paper No. 2. However, these recitations within *Klimczak* merely disclose that the data processing system on which the *Klimczak* invention is implemented employs memory for storing data. Nowhere within *Klimczak* is it taught or suggested that there is an excess content object set up within the software and that excess content to be covered by the control GUI objects may be saved in such an excess content object when the control GUI objects are added to the screen object. On page 8 of Paper No. 4, the Examiner cites several passages from *Klimczak*. But, they are insufficient to anticipate the reference. There is no teaching in *Klimczak* that excess content is stored in an object when it is displaced by GUI objects. The Examiner can cite all kinds of language about how a user can select options in *Klimczak*, but none of this will teach the claim limitations. Since the Examiner's burden for proving a case of anticipation is that each and every limitation must be found within the cited prior art reference, the Examiner has failed to prove a *prima facie* case of anticipation by merely asserting that *Klimczak* indirectly shows such limitation.

Regarding claim 8, *Klimczak* does not teach that if the display option flag is set to indicate a preference for the unconventional screen object then the control GUI objects are eliminated from the screen object and the excess content object is included in the screen object. The Examiner's inherency argument is insufficient. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. MPEP § 2112. In relying upon the theory of inherency, the Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art. *Id.* The Examiner has failed to prove a *prima facie* case of anticipation, since the Examiner has not adhered to these requirements set forth in MPEP § 2112.

Claim 17 recites that the conventional screen could be displayed as opposed to the unconventional screen without any control GUIs by receipt of a user selection of a hardware button on the system. The Examiner has failed to prove a *prima facie* case of anticipation in rejecting this claim by merely asserting language cited in *Klimczak* at column 12, lines 20-29. All this language teaches is that a mouse button or keyboard key could be programmed to perform an action item. Thus, a keyboard key could be programmed by the subscribers to perform a specific function when pressed by the user. Since in *Klimczak* the subscriber is determining what action items to display, it does not make sense to program a keyboard key to permit a user to do the same. The difference in the present invention is that a keyboard key can be configured to permit the user to select whether some (or all) or none of the control objects are displayed. *Klimczak* does not teach or suggest that a user can toggle between a conventional screen showing control GUIs and an unconventional screen showing no control GUIs. The Examiner's rejection relies upon assumptions and is not supported with teachings in *Klimczak* that actually disclose the limitations. The Examiner has previously failed to respond to these traversals.

In rejecting claim 23, the Examiner has merely asserted that it is rejected for the same reasons as claim 13 were rejected. This is insufficient to prove a *prima facie* case of anticipation, since claim 23 recites different limitations than claim 13. More specifically, claim 23 recites that when none of the control GUI objects are displayed with the content object, there are no user-selectable GUI objects displayed on the display that would prevent the user to manipulate the content object. Nowhere within *Klimczak* is this taught or suggested.

With respect to claim 24, nowhere within *Klimczak* is it taught or suggested wherein a display option flag can be set to indicate a user preference for display of the content object with no control GUI objects being displayed.

With respect to claim 25, nowhere does *Klimczak* teach or suggest a hardware input in communication with the screen object that permits selection by the user to display the control GUI objects when they have previously not been displayed with

the content object. Applicant's arguments above with respect to claim 17 are incorporated by reference herein.

With respect to claim 26, this claim recites control GUI objects include displayed objects permitting the user access to data or databases. This is not taught or suggested within *Klimczak*. The user profile database recited by the Examiner on page 5 of Paper No. 4 is not taught within *Klimczak* to be accessible by a user via displayed GUI objects.

With respect to claim 27, again Applicants respectfully assert that the Examiner has failed to prove that *Klimczak* permits a user to make a hardware selection that removes all of the one or more control GUI objects from being displayed concurrently with the displayed content object so that there are no control GUI objects being displayed, and so that the display pixels that had previously been displaying the control GUI objects now display previously undisplayed content object. The language cited by the Examiner in *Klimczak* does not in any way teach or suggest these claim limitations.

(2) Claims 18-20 and 22 have been improperly rejected under 35 U.S.C. § 103 as being unpatentable over *Klimczak* in view of *Ditzik*.

All *Ditzik* teaches is a desktop computer with an adjustable flat panel screen. There is no motivation to combine *Ditzik* with *Klimczak* except for the Examiner's unsupported opinion that it would have been obvious at the time of the invention for a person with ordinary skill in the art to use a PDA or other handheld devices in *Klimczak*'s application to provide a portable mobile display tablet operation to the user. This is insufficient to support a *prima facie* case of obviousness, since it is solely the Examiner's subjective opinion that is supporting such a motivation to combine the references.

Furthermore, Applicants provide on pages 1 and 2 the reason that such portable devices need an invention as recited within the present claims, since there is limited display real estate for showing the content, and control GUIs will take up such valuable real estate. The present invention provides a unique advantage in that it

permits a user to press a hardware button or use their stylus pen to toggle the content being displayed on such a device between a state where only the content is displayed to the user without any control GUIs to manipulate such a content, and one where the GUI objects are displayed. The desktop applications cited in both *Klimczak* and *Ditzik* do not provide a motivation to display content without control GUIs, since both of these inventions are disclosed to be utilized with desktop systems and accompanying larger displays where the need to conserve such display real estate is not necessary. In other words, one skilled in the art at the time the invention was made would have looked at *Klimczak* and *Ditzik*, and would not have been motivated to program these systems to remove all control GUIs from being displayed, since there is ample space on the display to show such control GUIs.

With respect to claim 18, the Examiner has not in any way specifically addressed the claim limitation wherein the display option flag is reset for the preference that the conventional screen be displayed by receipt of a Ronomatic action on the display by a user with a stylus. As a result, the Examiner has failed to prove a *prima facie* case of obviousness since the Examiner has failed to address this claim limitation.

With respect to claim 22, the Examiner has failed to recite a reference that teaches a wireless communications device operating the system of claim 14.

Respectfully submitted,
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APPENDIX

4. In a data processing system, a method comprising the steps of:

in an application program, determining control GUI objects and a content object;

determining if a user has set a display option flag indicating a preference for either a conventional screen object to be displayed comprising a display of the control GUI objects and the content object or an unconventional screen object to be displayed comprising a display of the content object but not any of the control GUI objects; and

determining the screen object to include the content object but not any of the control GUI objects as a function of the display option flag having a setting indicating a user preference for display of the content object without any of the control GUI objects.

5. The method as recited in claim 4, further comprising the step of displaying the screen object on a display device of the data processing system.

6. The method as recited in claim 5, further comprising the steps of:

receiving input from the user to set the display option flag indicating the preference for the conventional screen object to be displayed comprising the display of the control GUI objects and the content object;

determining the screen object to include the content object and the control GUI objects as a function of the display option flag having a setting indicating the user preference for display of the content object with the control GUI objects; and

displaying the screen object on the display device of the data processing system.

7. The method as recited in claim 6, wherein if the display option flag is set to indicate a preference for the conventional screen object then the control GUI objects are added to the screen object and excess content to be covered by the control GUI objects is saved in an excess content object.

8. The method as recited in claim 7, wherein if the display option flag is set to indicate a preference for the unconventional screen object then the control GUI objects are eliminated from the screen object and the excess content object is included in the screen object.

9. A computer program product adaptable for storage on a computer readable means, wherein the computer program product comprises an application program that comprises the program steps of:

determining control GUI objects and a content object;

determining if a display option flag has been set indicating a preference for either a conventional screen object to be displayed comprising a display of the control GUI objects and the content object or an unconventional screen object to be displayed comprising a display of the content object but not any of the control GUI objects; and

determining the screen object to include the content object but not any of the control GUI objects as a function of the display option flag having a setting indicating a preference for display of the content object without any of the control GUI objects.

10. The computer program product as recited in claim 9, further comprising the program steps of:

determining that the display option flag has been reset to indicate the preference for the conventional screen object to be displayed comprising the display of the control GUI objects and the content object; and

determining the screen object to include the content object and the control GUI objects as a function of the reset display option flag having a setting indicating the preference for display of the content object with the control GUI objects.

11. The computer program product as recited in claim 10, wherein if the display option flag is set to indicate the preference for the conventional screen object then the control GUI objects are added to the screen object and excess content to be covered by the control GUI objects is saved in an excess content object.

12. The computer program product as recited in claim 11, wherein if the display option flag is set to indicate the preference for the unconventional screen object then the control GUI objects are eliminated from the screen object and the excess content object is included in the screen object.

13. A data processing system comprising:

a processor;

a display coupled to the processor;

a memory storing an application program further comprising:

a screen object that is then displayed on the display;

a content object;

a control GUI object;

a display option flag; and

a screen state changing program for determining whether the screen object will include only the content object without any control GUI object as a function of the display option flag.

14. The system as recited in claim 13, wherein the screen state changing program will determine the screen object to include only the content object without any control GUI object when the display option flag has been determined to be set for a preference that an unconventional screen be displayed whereby the content is displayed and no control GUIs are displayed on the display.

15. The system as recited in claim 14, wherein the display option flag is settable by input from a user of the data processing system.

16. The system as recited in claim 15, wherein when the display option flag is reset for a preference that a conventional screen be displayed on the display whereby the content and the control GUIs are displayed, then the screen state changing program will determine that the screen object will include the content object and the control GUI object, any of the control object displaced by the control GUI object will be stored into an excess content object.

17. The system as recited in claim 16, wherein the display option flag is reset for the preference that the conventional screen be displayed by receipt of a user selection of a hardware button on the system.

18. The system as recited in claim 16, wherein the display option flag is reset for the preference that the conventional screen be displayed by receipt of a Ronomatic action on the display by a user with a stylus.

19. The system as recited in claim 14, wherein the data processing system is a PDA.

20. The system as recited in claim 14, wherein the data processing system is a laptop computer

21. The system as recited in claim 14, wherein the data processing system is a desktop computer

22. The system as recited in claim 14, wherein the data processing system is a wireless communications device.

23. A data processing apparatus comprising;
a processor;
a display coupled to the processor;
a memory storing an application program further comprising:

a content object for displaying content to a user of the apparatus;

control GUI objects for permitting a user of the apparatus to manipulate the content displayed by the content object; and

a screen object for permitting the user to select whether to display either some or all of the control GUI objects along with the content object or none of the control GUI objects with the content object, wherein when none of the control GUI objects are displayed with the content object, there are no user-selectable GUI objects displayed on the display that would permit the user to manipulate the content object.

24. The method as recited in claim 23, wherein a display option flag can be set to indicate a user preference for display of the content object with no control GUI objects being displayed.

25. The apparatus as recited in claim 23, further comprising a hardware input in communication with the screen object that permits selection by the user to display the control GUI objects when they have previously not been displayed with the content object.

26. The apparatus of claim 23, wherein control GUI objects include displayed objects permitting the user access to data or databases.

27. A method of using a software application comprising the steps of:

displaying a content object on a display of a data processing system apparatus, the content object displaying content associated with the software application;

displaying one or more control GUI objects on the display concurrently with the displayed content object, the one or more control GUI objects providing an interface to permit a user of the apparatus to manipulate the content:

receiving an input as a result of a hardware selection by the user, wherein the input operates to remove all of the one or more control GUI objects from

being displayed on the display concurrently with the displayed content object so that there are no control GUI objects being displayed, and so that display pixels that had previously been displaying the one or more control GUI objects now display previously undisplayed content object to add to the already displayed content object; and

receiving another input as a result of a hardware selection by the user, wherein the another input operates to again display the one or more control GUI objects concurrently with the content object in a manner so that the previously undisplayed content object is removed from being displayed.